

# EXHIBIT 25

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE SUSAN ILLSTON

In Re: TFT-LCD (Flat Panel) )  
Antitrust Litigation. )

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No. M. 07-01827 SI  
San Francisco, California  
Wednesday  
June 13, 2012  
8:37 a.m.

**TRANSCRIPT OF PROCEEDINGS**

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(Appearances continued on next page)

1                   **THE COURT:** No. That -- I'm going to leave that to  
2 the jury.

3 MR. GIDLEY: Thank you, your Honor.

4                   **MR. TOTO:** Your Honor, we do have one more  
5 housekeeping measure. Apologies. Hopefully, this will be  
6 quick. As you know, we're back to Dr. Flamm now. He testified  
7 at some length about the Samsung interrogatory responses.

8 THE COURT: Yes.

9                   **MR. TOTO:** And your Honor said I obviously am  
10 entitled to cross-examine him on those.

11 | THE COURT: Yes.

12                   **MR. TOTO:** And the interrogatory responses, as you  
13 will recall, produced by Samsung, who is protected from treble  
14 damages under the ACPERA statute that we talked about the other  
15 day --

16 || **THE COURT:** I know all about that.

17                   **MR. TOTO:** You know all about that. You know the  
18 name now.

19 THE COURT: Yeah.

20                   **MR. TOTO:** So we think it's within our rights at this  
21 point to question Dr. Flamm about the de-trebling provisions of  
22 ACPERA, because it goes to Samsung's motives and its bias in  
23 coöperating with Plaintiffs and preparing those interrogatory  
24 responses. So we just want to make sure it's fair game. I  
25 know there was a motion *in limine* on this. So that's our

1 request, your Honor.

2 **MR. SIMON:** We absolutely oppose it.

3 It's a different way of avoiding the motion *in*  
4 *limine*. And the jury is not allowed to know about trebling at  
5 all, so to talk about de-trebling or anything having to do with  
6 that would be --

7 **THE COURT:** Well, is it true that the treble-damage  
8 aspect of the statute is a punitive thing?

9 **MR. TOTO:** That's my understanding, your Honor.

10 **THE COURT:** Right. So how about if you were to ask  
11 him, "Well, is it a way to avoid any punitive addition to the  
12 damages?" or something like that, without talking about  
13 trebling?

14 **MR. SIMON:** Well --

15 **MR. TOTO:** Well --

16 **MR. SIMON:** I don't think that it -- it's a very  
17 black and white issue that the jury is not supposed to know  
18 about the treble damages. There's just no question about that.  
19 That's why the motion *in limine* was granted.

20 The Samsung interrogatory responses were served on  
21 March 7, 2011. They've been in play for a long time. And that  
22 this issue is coming up now all of a sudden because of  
23 something that Dr. Flamm supposedly said on the stand is  
24 disingenuous, because this issue has been on the table since  
25 this report came out; since there's been discussion in

1 deposition about the responses. Even their own experts were  
2 presented with the Samsung interrogatory responses in their  
3 depositions.

4 **MR. TOTO:** Your Honor -- sorry to interrupt.

5 **THE COURT:** You know, I think it is fair that the  
6 motivation of Samsung at the time that the interrogatory  
7 answers were provided is appropriate for bias or for  
8 examination.

9 And if -- part of it is they get to stay out of jail.  
10 That's a pretty big motivator right there.

11 **MR. TOTO:** Right.

12 **THE COURT:** But the other part of it is they get to  
13 avoid some of the other negative consequences of antitrust  
14 violations, including treble damages.

15 **MR. TOTO:** By two thirds, your Honor, and joint and  
16 several liability.

17 **THE COURT:** That could be -- you know, maybe that's a  
18 way you want to say it. Then you wouldn't have to talk about  
19 treble or not treble; but it's a way to reduce the damages you  
20 might otherwise be responsible for by two thirds. You could  
21 say something like that, which wouldn't --

22 **MR. SIMON:** I think anything that is a fraction of  
23 the trebling or suggests trebling is probably going to create  
24 speculation, and probably go over the line of the black-letter  
25 law about the jury not knowing about treble, however --

1                   **THE COURT:** You want to just say reduce the damages  
2 they might be subject to --

3                   **MR. TOTO:** By two thirds.

4                   **THE COURT:** Well, just reduce them. How about that?  
5 Just if there's a way to reduce the damages.

6                   **MR. TOTO:** Well, we think it's significant that it's  
7 not just some small reduction; some small discount. This is a  
8 gigantic reduction: Two thirds.

9                   **THE COURT:** All right. A two-thirds reduction.

10                  **MR. TOTO:** Yes.

11                  **THE COURT:** That would be fine. And they don't they  
12 don't need to know one way or another.

13                  **MR. SIMON:** Well, it's a fine line. And I'd just --  
14 I don't know what Counsel intends to ask. I think he could get  
15 there without even going to that point. And if he crosses the  
16 line, and Dr. Flamm or him, in talking to each other, it comes  
17 out that there's some sort of trebling, we can't take that  
18 back.

19                  **THE COURT:** Well, then, we'll just have to give a  
20 curative instruction.

21                  **MR. TOTO:** I don't to violate your instruction here,  
22 your Honor.

23                  **MR. GLACKIN:** It's --

24                  **MR. TOTO:** It seems pretty clear to me.

25                  Just so it's clear, by the way, the Samsung

1 interrogatory responses, themselves, refer to the ACPERA  
2 statute. And they say, "We are operating under ACPERA."  
3 Samsung says that. So just so it's clear.

4 **MR. SIMON:** Well, they do refer to it; but there's --  
5 I think you can get there by talking about the Corporate  
6 Leniency Program, and what, you know, ACPERA is, without  
7 getting into the trebling issue. We've already read an  
8 instruction to them yesterday which talks about it, so there's  
9 a way to skin the cat, without --

10 **THE COURT:** Which talks about what?

11 **MR. SIMON:** We had the description of Samsung being  
12 the leniency applicant in the guilty-plea instruction that you  
13 read to them yesterday, so they know it under terms that it's a  
14 "Corporate Leniency Program."

15 To the extent he wants to go into that with  
16 Dr. Flamm, he can.

17 The extent that he wants to use the --

18 **THE COURT:** Well, I'll allow you to ask him. And we  
19 should somehow get this to Dr. Flamm, also, in case -- because  
20 he probably knows about trebling. Say, "And you can reduce  
21 your damages to a third of what they might be, or reduce them  
22 by two thirds."

23 **MR. GLACKIN:** I'll --

24 **MR. TOTO:** Okay.

25 **MR. GLACKIN:** -- instruct him not to blurt out

1 anything about trebling.

2 **THE COURT:** Okay. All right.

3 **MR. GLACKIN:** Shall I bring him in?

4 **THE COURT:** Yeah. Are you ready?

5 **MR. TOTO:** Yes.

6 **THE COURT:** And, Mr. Glackin, he's truly feeling all  
7 right?

8 **MR. GLACKIN:** He's feeling great. Thank you for  
9 asking.

10 **THE COURT:** Okay.

11 (Jury in at 1:10 p.m.)

12 **THE COURT:** Do we have a witness?

13 (Witness resumes stand)

14 **THE COURT:** All right. Mr. Toto, you may proceed.

15 And, Dr. Flamm, you're still under oath from this  
16 morning, sir.

17 **MR. TOTO:** Thank you, your Honor.

18 **CROSS-EXAMINATION RESUMED**

19 **BY MR. TOTO**

20 **Q.** Welcome back, Dr. Flamm.

21 **A.** Thank you.

22 **Q.** I would like to turn back to Exhibit 228 that we were  
23 talking about before lunch, which is a meeting between Sharp  
24 and Toshiba's PC company. Do you have that in front of you?

25 **A.** Sure. I think this is it right here.

**CERTIFICATE OF REPORTER**

We, LYDIA ZINN, and BELLE BALL, Official Reporters for the United States Court, Northern District of California, hereby certify that the foregoing proceedings in M. 07-1827 SI, *In Re: TFT-LCD (Flat Panel) Antitrust Litigation*, were reported by us, certified shorthand reporters, and were thereafter transcribed under our direction into typewriting; that the foregoing is a full, complete and true record of said proceedings as bound by us at the time of filing.

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/s/ Lydia Zinn, CSR 9223

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/s/ Belle Ball, CSR 8785

Wednesday, June 13, 2012